

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Determine
Whether Baseline Allowances for Residential
Usage of Gas and Electricity Should Be Revised.

Rulemaking 01-05-047

**SCOPING MEMO OF ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE FOR PHASE 2 OF PROCEEDING**

This Scoping Memo determines the schedule and the issues to be addressed during Phase 2 of this proceeding. This ruling follows a prehearing conference held on January 31, 2002.

Background

The Commission began this proceeding to examine its § 739 baseline program.¹ Under § 739, a baseline quantity is a “quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer.” A “significant portion” under § 739(d)(1) is 50 to 60% of use, except for residential gas customers and all-electric residential customers, for whom the baseline is set in a range of 60 to 70% during the winter heating season. Thus, baseline quantities are designed to cover 50-70% of usage. They apply to residential customers only.

¹ All citations herein are to the Public Utilities Code.

During Phase 1 of this proceeding, the Commission considered the following issues:

- 1) Updating the energy usage data used by the Commission in calculating baseline quantities;
- 2) The appropriate percentage of energy usage to use in calculating baseline quantities (within the range specified by Public Utilities Code § 739(d)(1)); and
- 3) Possible changes to the medical baseline allowance.

The Administrative Law Judge (ALJ) division mailed a draft decision relating to these issues on February 19, 2002, for consideration at the Commission's March 21, 2002 business meeting.

This ruling sets the scope and schedule of Phase 2 of the proceeding.

Scope

We will consider the following issues during Phase 2:

1. *Household characteristics (including household/home size and demographics).*
 - To the extent the Commission's California Alternative Rates for Energy (CARE) program is insufficient to protect low-income consumers, and adjustments to baseline in this area might mitigate those inadequacies, evidence about the CARE program will be allowed. However, proposed solutions that involve or require partial or wholesale changes to the CARE program are beyond the scope of this proceeding.
 - Anyone who contends that the current statutory framework does not allow a change in this aspect of baseline shall submit briefing in accordance with the schedule set forth below. Response to such briefing may, at the parties' option, include a discussion of what the Commission should do if it is legally barred from

making a change in the baseline program to consider household characteristics, and the current program is “discriminatory” pursuant to § 853.²

2. *Climate zones and geographic boundaries of each utility’s baseline zones*

- The large Investor Owned Utilities (IOUs) – Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), Southern California Gas Company (SoCalGas) and San Diego Gas and Electric Company (SDG&E) shall conduct a study designed to examine the appropriateness of changes in the current climate zones used to establish baseline quantities around the state. I will furnish further direction regarding this study in an upcoming ruling.

3. *Well water pumping for household use*

- Anyone who contends that the current statutory framework does not allow a change in this aspect of baseline shall submit briefing in accordance with the schedule set forth below.

4. *Condominium and other multiple dwelling unit common areas*

- Anyone who contends that the current statutory framework does not allow a change in this aspect of baseline shall submit briefing in accordance with the schedule set forth below.
- PG&E and the Office of Ratepayer Advocates (ORA) will present a joint motion for Commission approval of a proposed settlement in this area.

² Greenlining/Latino Issues Forum raised this issue at the January 31, 2002 prehearing conference.

5. *Seasonal residence effects on average use calculations (including the application of baseline to vacation homes)*

- Anyone who contends that the current statutory framework does not allow a change in this aspect of baseline shall submit briefing in accordance with the schedule set forth below.

6. *Definition of seasons*

- This issue will examine whether the “shoulder months” of May and October should be included as part of summer or winter.

7. *Rate impacts of changes to baseline*

8. *Proposed legislative changes*

Several of the foregoing issues will require legal briefing in advance of the hearing to determine whether the Commission has statutory authority to make changes related to the issues. The issues requiring such briefing are items 1, 3, 4 and 5. Parties shall submit legal briefs addressing these issues according to the schedule set forth below.

Schedule

The schedule for Phase 2 of this proceeding is:

Event	Due Date
Opening legal briefs due (from parties that contend the Commission lacks statutory authority to change the baseline <i>status quo</i>) ³	March 1, 2002

³ Parties shall file and serve opening and responsive legal briefs. Service shall be by hard copy and by email, using the service list available on the Commission’s website at http://www.cpuc.ca.gov/published/service_lists/R0105047_27828.htm.

Responsive legal briefs due	March 15, 2002
Opening testimony due (from parties that propose change to any rules within scope above)	May 17, 2002
Responsive testimony due	June 14, 2002
Discovery and motion cut-off (all discovery responses due no later than this date, and motions heard no later than this date)	July 1, 2002
Hearings	July 8-9, 2002, 10 a.m. – 4 p.m. July 10, 2002, 9 a.m. – 1 p.m. July 15-19, 2002, 10 a.m. – 4 p.m.

Hearing Preparation

Parties shall pre-mark their exhibits (except rebuttal exhibits) and exchange them in accordance with the ALJ's Hearing Room Ground Rules (Appendix A hereto). The parties may agree among themselves upon an exhibit numbering scheme, which shall resume where the numbering from Phase 1 left off. Parties should serve, but not file, proposed testimony and rebuttal testimony. Parties who served exhibits during Phase 1 of this proceeding that were admitted into evidence may assume that those exhibits form part of the record of this proceeding. For the sake of convenience, however, parties shall reserve such exhibits.

Parties shall use the same outline for opening and responsive briefs. Parties should seek to agree on that outline. Disputes may be presented to ALJ Thomas.

Parties are encouraged to coordinate cross-examination. Cross-examination will be limited to prevent duplication, if necessary.

Parties shall comply with the Hearing Ground Rules set forth in Appendix A hereto.

Service List

The official service list is now on the Commission's web page at http://www.cpuc.ca.gov/published/service_lists/R0105047_27828.htm. Parties should confirm that the information on the service list and the comma-delimited file is correct, and serve notice of any errors on the Commission's Process Office, the service list and the ALJ.

Parties shall serve hard copies of all briefs, testimony and other documents furnished to the Commission on all parties listed on the service list, including those identified as "State Service." Parties are not required to serve hard copies of such documents on those listed under "Information Only," but individuals or entities on the "Information Only" list that have provided an e-mail address shall be served electronically with all such documents. The e-mail addresses are listed on the Commission's website under "Case Info" in the "comma delimited file" at http://www.cpuc.ca.gov/published/service_lists/R0105047_27828.htm. Parties shall copy the assigned ALJ on any pleadings or other documents (save discovery) by e-mail at srt@cpuc.ca.gov.

Small Utilities

Some of the smaller utilities expressed concerns at the PHC about the cost of participating in this proceeding, and requested some form of relief from participation. ALJ Thomas properly denied those requests at the PHC. As acknowledged by ALJ Thomas, the level of active participation of each party in

this proceeding, including each respondent utility, is up to that party.⁴ However, all respondent utilities remain parties to this proceeding, and are bound by the outcome of this proceeding, regardless of their level of active participation. It is assumed that all respondent utilities will continue to cooperate with the Commission's Energy Division, and will respond promptly and thoroughly to its data requests. Responses to Energy Division's data requests may be made part of the record, and the Commission may use that information as a basis for its ultimate decision(s) in this proceeding.

Commission's Public Advisor

Anyone who needs assistance with participation in this proceeding should make use of the resources on the Commission's web site, www.cpuc.ca.gov, or should contact our Public Advisor's Office, which is available to help parties understand how to participate in a proceeding, how to file a pleading, and to answer other questions about Commission procedure. The northern California office can be reached at 415-703-2074 or public.advisor@cpuc.ca.gov. The Southern California office can be reached at 213-576- 7055 or public.advisor.la@cpuc.ca.gov.

Therefore, **IT IS RULED** that:

1. The scope of Phase 2 of this proceeding is described above.
2. The schedule for Phase 2 of this proceeding is described above.
3. Parties shall use a common outline for briefs.

⁴ We expect, however, that the larger utilities will fully and actively participate in this proceeding.

4. Parties shall comply with the Hearing Ground Rules set forth in Appendix A hereto and the hearing preparation guidelines set forth in the body of this ruling.

5. The official service list is attached to this Ruling. Parties shall serve hard copies of all briefs, testimony and other documents furnished to the Commission on all parties listed on the service list, including those identified as “State Service.” Parties are not required to serve hard copies of such documents on those listed under “Information Only,” but individuals or entities on the “Information Only” list that have provided an e-mail address shall be served electronically with all such documents. The e-mail addresses are listed on the Commission’s website under “Case Info” in the “comma delimited file” at http://www.cpuc.ca.gov/published/service_lists/R0105047_27828.htm.

6. Parties shall copy the assigned ALJ on any pleadings or other documents (save discovery) by e-mail at srt@cpuc.ca.gov.

Dated February 26, 2002, at San Francisco, California.

/s/ GEOFFREY BROWN
Geoffrey Brown
Assigned Commissioner

/s/ SARAH R. THOMAS
Sarah R. Thomas
Administrative Law Judge

Appendix A

Hearing Room Ground Rules

1. All prepared written testimony should be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Prepared written testimony shall not be filed with the Commission's Docket Office.
2. Each party sponsoring an exhibit should, in the hearing room, provide two copies to the ALJ and one to the court reporter, and have copies available for distribution to parties present in the hearing room. (Present estimate: 5 copies.) The upper right hand corner of the exhibit cover sheet should be blank for the ALJ's exhibit stamp. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the exhibit.
3. As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction.
4. Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.
5. Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. For example, Exhibit 5-A is the first correction to Exhibit 5.
6. Individual chapters of large, bound volumes of testimony may be marked with separate exhibit numbers, as convenient.
7. Partial documents or excerpts from documents must include a title page or first page from the source document; excerpts from lengthy documents should include a table of contents page covering the excerpted material.

8. Motions to strike prepared testimony must be made at least two working days before the witness appears, to allow the ALJ time for review of the arguments and relevant testimony.
9. Notices, compliance filings, or other documents may be marked as reference items. They need not be served on all parties. Items will be marked using letters, not numbers.
10. No food is allowed in the hearing room; drinks are allowed if you dispose of containers and napkins every morning and afternoon.

(End of Appendix A)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo of Assigned Commissioner and Administrative Law Judge for Phase 2 of Proceeding on all parties of record in this proceeding or their attorneys of record.

Dated February 26, 2002, at San Francisco, California.

/s/ ERLINDA PULMANO
Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

R.01-05-047 GFB/SRT/eap